

CHAPTER 2 ACQUISITION PLANNING

2-1. Principles.

a. Proposed contracts for A-E services will be structured to maximize competition, provide contract opportunities for many firms, and maximize small business (SB) and small disadvantaged business (SDB) participation, while satisfying the needs of the Government in the most effective, economical, and timely manner.

b. Acquisition planning for A-E services will be a team effort among technical, contracting, project management, and other appropriate personnel, including the Deputy for Small Business (DSB).

2-2. Responsibilities.

a. General. The Chief of Engineering¹, the Deputy for Programs and Project Management (DPM), the Chief of Contracting, the DSB, and other functional elements as appropriate, in each operating command (center, district or laboratory) having A-E contracting authority are responsible for acquisition planning for A-E services.

b. Time Standards. Commanders should regularly review the A-E contracting process in their command to ensure that A-E contracts and task orders (issued under indefinite delivery (ID) contracts) are procured in accordance with the time standards in paragraph 2-10 to the maximum extent possible.

2-3. Definition of A-E Services. A-E services are defined in FAR 36.102 and 36.601-4. Appendix E provides guidance to assist the contracting officer (KO) in determining if a particular contract should be procured as A-E services in accordance with FAR Subpart 36.6. Appendix F provides further guidance on which types of environmental services

should typically be procured as A-E services. A design-build contract is procured as a construction contract in accordance with FAR Part 36, and not as an A-E contract, since the A-E services are a minor part of a design-build contract. Similarly, a Total Environmental Restoration Contract (TERC) is procured as a service contract under the source selection procedures in FAR 15.3, and not as an A-E contract, since the A-E services are a minor part of a TERC contract.

2-4. General Considerations. See FAR Part 7 and the supplements thereto for general requirements for acquisition planning, and EFARS 36.601-3-90 for specific requirements for A-E ID contracts. Thorough acquisition planning (informal or formal) will determine the nature, type, scope and number of contracts required for a project or program, including contracts for A-E services. Acquisition planning will consider the nature, complexity and dollar value of the anticipated work; schedule and urgency; budget and funding stream; industry capabilities; and small business opportunities. Unrelated or dissimilar work shall not be bundled in the same contract.

2-5. Small Business Considerations. As required by EFARS 19.201(c)(9)(B), each proposed synopsis for A-E services shall be coordinated with the DSB. The DSB will review the acquisition for possible set-aside for SB, emerging SB (ESB) or the Small Business Administration's (SBA) 8a Program in accordance with current laws and regulations. The DSB will document the review using DD Form 2579. If a contract is not set-aside, it will still be structured to maximize the opportunities for SB and SDB to compete. For example: unrelated requirements will not be bundled into one contract; the scope and geographic area of an ID contract will not be unduly broad; the monetary limits of an ID contract will be set at the lowest reasonable levels; and overly restrictive technical requirements will not be included.

¹ Engineering Division and Chief of Engineering (or Chief, Engineering Division) is used generically in this EP to refer to the division and its chief responsible for the engineering function at a district or center. Likewise for Construction Division and Chief of Construction (or Chief, Construction Division)

2-6. Acquisition Strategies and Plans. Appropriate acquisition planning must be performed for each A-E contract. An informal acquisition strategy is suitable for most contracts (see EFARS 7.103 and 36.601-3-90(b)). The requirements for formal acquisition plans are contained in DFARS

207.103, AFARS 7.103 and EFARS 7.103. A formal acquisition plan must follow the format in FAR 7.105 and be approved by the PARC. Acquisition strategies and plans must be fully coordinated among the concerned functional elements. Acquisition planning for a construction project must include both the design and construction phases, and be performed prior to the solicitation of an A-E contract, in order to allow the consideration of design-bid-build, design-build (see ER 1180-1-9) and other delivery methods.

2-7. Contract Types.

- a. General. The KO is responsible for selecting the appropriate contract type in coordination with technical, contracting and legal specialists. FAR Subpart 16.1 provides general policies and guidance on selecting contract typecontract. Task order may be FP, CR or LH, as allowed by the ID contract.
- b. Firm-Fixed-Price (FFP) Contract. A FFP contract (FAR 16.202) is appropriate when the statement of work (SOW) can be well defined and there is sufficient time to announce, select, negotiate and award a contract. A FFP contract minimizes the Government's risk and administrative burden. Other types of fixed-price (FP) contracts may be appropriate at times (see FAR 16.2).
- c. Cost-Reimbursement Contract. A CR contract (FAR 16.3) is used when uncertainties in the SOW do not permit costs to be estimated with sufficient accuracy to use a FP contract. A CR contract shall not be used as a substitute for developing a detailed SOW or allowing adequate procurement lead time. The most common CR contract types used for A-E services in USACE are cost-plus-award-fee (CPAF; FAR 16.305) where the contractor's fee (same as profit in a FP contract) is dependent on certain performance criteria, and cost-plus-fixed-fee (CPFF) where the contractor receives a fixed fee, independent of actual costs.
- d. Labor-Hour (LH) Contracts. A LH contract or task order (FAR 16.601 and 16.602) compensates the contractor for actual hours worked at predetermined rates. This contract type does not provide a financial incentive for a contractor to perform efficiently, and hence, is one of the least preferred contract types. Somewhat similar to a CR contract, a LH contract may be applicable when the extent or duration of work or anticipated costs can not be estimated with any reasonable degree of confidence. A LH contract or task order might be appropriate for work such as dredging payment surveys where the duration of the survey work is dependent on the progress of the dredging contractor and is not within the direct control of the survey contractor.
- e. Indefinite-Delivery Contracts. ID contracts are the predominant contract type used for A-E services in USACE. ID contracts must comply with FAR 16.5, and EFARS 16.5 and 36.601-3-90. ID contracts are generally used for recurring types of A-E services where procurement of these services individually by normal announcement, selection, negotiation and award procedures would not be economical or timely. Task orders for particular projects are negotiated and issued under the terms and conditions of the ID contract.
- f. Letter Contracts. A letter contract (FAR 16.603) is a preliminary contractual instrument that authorizes a contractor to begin work immediately. A definitive contract must then be negotiated within the time periods prescribed in FAR 16.603-2. It is appropriate for urgent requirements when there is not sufficient time to follow the normal A-E negotiation and award process. The use of a letter contract must be approved by CEPR-ZA in accordance with FAR 16.603-3 and DFARS 216.603-3 and 217.74, except USACE Division Commanders can approve letter contracts not exceeding \$3,000,000 for emergencies in accordance with EFARS 16.603-3 and 17.7404-1 (S-100).
- g. Simplified Acquisition Procedures.
 - (1) Purchase Orders. Purchase orders (FAR 13.302) are an expedient method for purchasing services that do not exceed the simplified acquisition threshold (SAT), which is currently \$100,000 (FAR 2.101). Announcement and selection procedures are described in paragraph 3-15.a. Purchase orders are almost always negotiated as FFP.
 - (2) Credit Card. A-E services which do not exceed the micro-purchase threshold of \$2,500 may be procured using the Government credit card as described in paragraph 3-15.a(4).

2-8. Selection of Contract Type. Selection of the appropriate A-E contract type generally depends on the following factors (also see FAR 16.104):

a. Scope Certainty. Use a FFP contract, task order, or purchase order if the scope can be defined and the level of effort reasonably estimated. If not, use a CR contract or task order. As a last resort, use a LH contract or task order.

b. Nature and Size of Work. Consider first a task order if the required services are within the scope and size limitations of an available ID contract. Or, consider using a contract awarded through the advance selection process (see paragraph 3-15.h) if the required services are within the type of work and size limitations of that selection. If neither of these methods are suitable, initiate a new announcement and selection process.

c. Schedule. A separate contract should be procured for a moderate or large project whenever possible. Consider a credit card purchase or purchase order for a very small project. Consider a task order for a time-sensitive, small or moderate size project. Consider using a contract awarded through the advance selection process for a time-sensitive project of the appropriate type and size. Consider limited competition (FAR 6.3) and/or a letter contract in the most urgent circumstances.

2-9. A-E Contracting Process. Appendix G is a generic network of the A-E contracting process in USACE based on the pertinent acquisition regulations.

2-10. Time Standards.

a. General. Prompt procurement of A-E services is essential to properly serve USACE customers. Prolonged contracting causes delays in project milestones, untimely obligation of funds, increased costs and is unfair to A-E firms. For these reasons, realistic time standards have been established for awarding A-E contracts and issuing A-E task orders in USACE. These standards should be followed to the maximum extent possible.

b. Standards.

(1) Contracts should typically be awarded within 145 calendar days, measured from the

publication of the Commerce Business Daily (CBD) synopsis. The typical durations of the activities required to award an A-E contract are shown in Appendix H.

(2) Task orders should typically be issued within 37 calendar days, measured from issue of the Request for Price Proposal (RFPP) to the appropriate ID contractor. The typical durations of the activities required to issue a task order under an ID contract are shown in Appendix H.

(3) Task orders for outside customers, such as Army installations, where the scope preparation and negotiations were done by the customer, should typically be issued by USACE in 6 calendar days, measured from receipt of proper negotiation documentation and funding from the customer. The relevant contracting activities and durations are shown in Appendix H.

(4) Contracts and task orders should be awarded in less time if needed to meet critical customer requirements. Similarly, longer durations may be appropriate for certain contracts and task orders, such as ID contracts for USACE use or for complex and/or very large contracts and task orders.

c. Justifiable Delays. The above standards exclude justifiable delays beyond the reasonable control of a USACE command, such as: scope uncertainties, delay in receiving funds, deferral or suspension of a project by a customer or higher authority, unsuccessful negotiations with the highest qualified firm, delaying the award of an ID contract for a reasonable period to coincide with issuance of the first task order, or a protest. Also, additional time would be required if an audit is considered necessary to determine a fair and reasonable price.

2-11. Streamlining Techniques. Appendix I provides some suggested techniques for streamlining A-E contracting. The timely award of A-E contracts and task orders is largely within the direct control of each USACE command, and requires very close cooperation and teamwork among engineering, project management, contracting, counsel, resource management, small business, audit and other functional elements.